

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Petition Of Massachusetts Electric Company For)	
Review Of Its Electric Industry Restructuring)	D.P.U.
96-25		
Proposal)	

**INITIAL POST-HEARING COMMENTS OF
NEW ENERGY VENTURES, INC. (NEW ENGLAND)**

New Energy Ventures, Inc. (New England) ("NEV-New England") submits the following comments with respect to the settlement proposed in the above-captioned matter.

A.The Settlement represents a forward step in the development of a competitive marketplace

NEV-New England supports the efforts of MECO and other parties in developing the Settlement. The Settlement provides a needed structural template and allows the difficult process of restructuring Massachusetts' electric services industry to begin. While flawed in many important specific areas, which will be discussed below, the Settlement contains some of the essential elements for the establishment and development of a competitive retail electricity market. It provides for the right of customers to choose their electric supplier and it begins the important process of unbundling utility services, thereby eventually exposing the most inefficient features of today's utilities to competitive forces, leading to lower consumer costs, the underlying objective of the movement to competition.

B.The Settlement falls short in several critical areas that will delay or impede the development of a truly competitive marketplace.

Although the Settlement is severely deficient in several key areas which merit further consideration, that does not necessarily warrant rejection of the Settlement itself. These areas include the pricing of the Standard Offer,

over-and under-collections, unbundling, metering and billing, information sharing and affiliate abuse. Taken as a whole they are critical to the development of a healthy competitive market. Should the Department approve the Settlement, NEV-New England asks that the Department also address the issues raised in this brief. The Department has jurisdiction over the retail market in Massachusetts and to defer consideration of the issues raised will only delay the implementation of robust competition to the detriment of consumers. Thus, NEV-New England believes that while the Settlement should be approved, unless the Department addresses some of the major problems relating to the implementation of retail competition, it will have laid the groundwork for anemic rather than robust competition, particularly in the early years of the settlement.

1. The Standard Offer Price structure in the Settlement will deter the development of robust competition.

NEV-New England recognizes and strongly supports the objective of lower rates enuring to ratepayers as a result of the Settlement. Once the discount is accounted for, however, there is a question about how to structure the remaining revenue stream so that there is an opportunity for a healthy, competitive marketplace to grow. Such a marketplace will produce the sustained delivery of economic benefits to Massachusetts, and the creation of further savings for Massachusetts consumers.

Like other intervenors in this proceeding, NEV-New England is particularly concerned with the Standard Offer energy price, which is below actual utility going-forward costs and market prices for at least 1998 and 1999. This would discourage the entry of new competitors in the marketplace.

In addition, NEV-New England is concerned with the method in which resultant under-collections are proposed to be recovered. Customers

participating in the Standard Offer would only pay 2.8 cents/kWh for energy in 1998, and 3.1 cents in 1999. Suppliers would bid to supply Standard Offer customers through an auction, potentially at prices above 2.8 and 3.1 cents in those years. Any under- or over-collection of actual costs caused by this discrepancy could be recovered as the access charge fell. Uncollected charges remaining after 2004 would be collected through a uniform surcharge borne by all customers, to be charged beginning in 2010.

2. The settlement creates the potential for improper allocation of under- and over-collected charges.

NEV-New England has the following concerns regarding the setting and collection of charges relating to under or over-collection for Standard Offer supplies:

- Customers who are not participating in the Standard Offer should not be charged for, nor credited with, the effects of generation-related under- or over-collections in Standard Offer electricity bills. The Settlement creates the potential for such misallocation.
- There should be assurance that MECO is compelled to collect as much of under-collected revenues as possible in real time under the rate caps, rather than deferring collections until 2010. There should be a requirement or an incentive to collect as much of the under-collections as possible in real time, when the charge is applied only to Standard Offer participants. It should not be possible to preserve the attractiveness of the Standard Offer vis-a-vis competitive offerings by, for example, delaying reductions in the

access charge, thereby ultimately shifting costs to customers who had chosen competitive suppliers.

- Ultimately, there is no justification for applying the post-2010 charge to all customers regardless of their participation in the Standard Offer. To avoid cost-shifting, MECO should be required to establish adequate record-keeping to allocate costs to customers based on the level of their electricity purchases through the Standard Offer from 1998 to 2004.

3. Unbundling of distribution services is key to the opening up of the retail marketplace and should not be delayed while other issues such as PBR are addressed in the Settlement.

The degree to which unbundling occurs will contribute greatly to the development of a healthy competitive market, particularly in light of problems with the Standard Offer as described above. Full unbundling of distribution services, including billing and metering, will lead to further market-driven efficiencies and price decreases for consumers. The services assigned exclusively to the distribution monopoly should only be those which the Department feels should be sheltered from the effects of competitive pricing and from competitively-driven innovation.

Delays in unbundling distribution services will position utilities to collect bundled distribution revenues to pay for their own or their affiliates' positioning in future competitive markets. In other words, consumers could be financing the further enhancement of the dominant supplier's market share, to their own detriment.

One way this could occur would be through the misapplication of PBR revenues. Ongoing regulatory proceedings involving MECO are likely to be less frequent under a PBR regime, with less scrutiny of costs and of cost

allocations. The Department should implement measures to ensure that distribution-related PBR revenues are always reinvested in the "lines" portion of the distribution business, thus creating future benefits for consumers who will continue to rely on the distribution system. If these revenues are invested instead into billing, metering, or other unbundled ancillary services, ratepayers and competitors could be harmed, particularly if services enhanced through distribution-related revenues were sold to unregulated affiliates at less than full market prices. Given that billing and metering are ultimately intended to be unbundled, it is best to accomplish that process as quickly as possible.

Finally, meter control and ownership is at the center of a competitive market -- since meters are the source of the information needed by consumers and their agents to facilitate their participation in the competitive market place. The installation of meters, if exclusively assigned, could be easily used to stall the growth of competitive markets. Relying on utilities as agents of change in this essential area, or as guardians of the information needed to participate in new markets, is an invitation to anticompetitive behavior.

The Department should view unbundling, including billing and metering, as an issue central to the definition and implementation of a competitive electricity market *at the outset*. Without an aggressive and thorough review of this issue, the ultimate shape of the market remains unresolved, and the entry and development of competitive suppliers will be chilled. Although the Department has chosen to defer consideration of the details of unbundling at this point, the Department should establish a more aggressive schedule for considering this issues than that proposed in Section V(G) of the Settlement

Agreement. There is no basis for a two-year delay after the Retail Access date before MECO is required to file a proposal to unbundle distribution services. These issues should be considered on a schedule that ensures that they will be worked out by the date that Retail Access is implemented, on January 1, 1998. This would accelerate by only a few months the schedule which MECO itself has stated is a reasonable objective. Tr. Vol. 1, pp. 181-82 (Sergel). There is no reason why consideration of these issues cannot occur simultaneously and in parallel with implementation of the "larger" issues.

4. Information should be shared and made transparent.

A customer's loads and load shape data, all currently in the hands of regulated utilities, are essential pieces of information for competitive electricity purchasing. Indeed, a competing supplier cannot even provide a credible price estimate without this information, and a buyer cannot enter the market. The Department should ensure that all customer-related information currently held or collected by regulated utilities be made available to any and all suppliers, agents, aggregators, or other parties upon authorization for release of such data by the customer. The utilities should not encourage customers to provide authorization limited to marketing affiliates, and to ensure that such encouragement is not given, any authorization limiting the release of information only to the affiliate should not be honored. Data should be provided in specified computer-based formats at no cost to the customer or the designated recipients. The Department should treat this issue as a critical-path item for the coming months.

5. The Department should remain vigilant against affiliate abuse and abuse of market power.

The Department is conducting separate proceedings on standards of conduct, in which NEV-New England has submitted comments. This issue, however, merits mention at every opportunity, since it holds the possibility for anticompetitive behavior which could frustrate implementation of the Department's central goal of establishing a truly competitive marketplace.

C.NEV-New England requests that the Department remedy some of the shortcomings in the MECO Settlement Proposal

NEV-New England strongly believes that consumers in Massachusetts will gain from the benefits of a robust competitive electricity marketplace that is in place from the moment that retail competition is implemented. Although there are complex steps that need to be taken, many issues can be addressed simultaneously in working groups that work on specific tasks so that on Day One of Retail Access, consumers receive all benefits from competition. Thus, NEV-New England requests that the Department consider the following recommendations:

- Adjust the Standard Offer price to a more realistic level;
- Relieve direct access customers from the effects any over- or under-collection for energy supply to Standard Offer participants;
- Require MECO, operating under a performance-based regulation ("PBR") regime, to collect as much of the under-collection as possible in real time from Standard Offer participants rather than shifting this charge later to all customers, including those not participating in the Standard Offer;
- Apply the post-2010 charge for the remaining under-collection proportionally to customers' level of electricity purchases under the Standard Offer;
- Implement total unbundling of distribution services from the start of retail competition;
- Promote complete information sharing and access with the approval of customers from the outset to ensure the transparency of the marketplace;

- Ensure that the processes are in place so that utilities and their affiliates adhere to strict standards of conduct; and
- Establish working groups that address issues related to retail competition; these groups should include all participants in the marketplace and be required to complete their work prior to the implementation date for retail access so that the market can operate openly and fairly from the start.

Respectfully submitted,

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Dated: December 17, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department Rules of Practice and Procedure), to ensure delivery by hand or by courier service on December 17, 1996 or December 18, 1996.

Richard W. Benka
Counsel for New Energy Ventures, Inc. -
New England

Dated: December 17, 1996